

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION**

EZELL McCLAIN, )  
Petitioner, )  
vs. )  
WARDEN JAMES DELOACH and )  
THE ATTORNEY GENERAL )  
FOR THE STATE OF ALABAMA, )  
Respondents. )

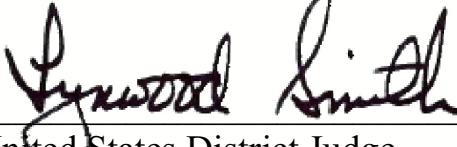
Civil Action No. CV 05-S-1290-NE

## MEMORANDUM OPINION

This case is before the court on the petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. The magistrate judge entered a report and recommendation recommending that the respondents' motion for summary judgment be granted and that the action be dismissed. No objections have been filed.

The court has considered the entire file in this action, including the report and recommendation, and has reached an independent conclusion that the report and recommendation is due to be adopted and approved. Accordingly, the court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of the court. Consequently, the petition for a writ of habeas corpus is due to be dismissed. An appropriate order will be entered.

Done this 25th day of November, 2008.



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Lynnwood Smith  
United States District Judge